

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

RENDA A. LOLLIS

§

VS.

§

CIVIL ACTION NO. 5:04cv33

**COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION**

§

MEMORANDUM ORDER

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. Plaintiff filed objections to the Report and Recommendation. The Court conducted a *de novo* review of the Magistrate Judge's findings and conclusions.

Plaintiff objects to the Magistrate Judge's recommendation that Plaintiff's above-entitled and numbered social security cause of action be affirmed. Specifically, Plaintiff asserts the Magistrate Judge does not address the fact that a vocational expert ("VE") was not called in this matter after the Administrative Law Judge ("ALJ") found in his decision that Plaintiff is unable to perform any of her past relevant work. Plaintiff further asserts the medical evidence confirms Plaintiff suffers from polyneuropathy, neuropathy, and a major depressive disorder. According to Plaintiff, the medical evidence, Plaintiff's testimony, and the testimony of her two witnesses demonstrate Plaintiff is unable to be gainfully employed.

After reviewing the transcript, the briefs of the parties, and the Report and Recommendation, the Court finds Plaintiff's objections are without merit. In the Report and Recommendation at pages

20-21, the Magistrate Judge did address the fact that a vocational expert (“VE”) was not called in this matter. Specifically, the Magistrate Judge noted that because there is substantial evidence to support the ALJ’s decision that Plaintiff could perform a substantial range of sedentary work, the ALJ properly relied exclusively on the Grids in the absence of vocational expert testimony. According to the Magistrate Judge, by matching Plaintiff’s abilities with the Grids, the ALJ has taken “administrative notice” that jobs are available for Plaintiff to perform. *See Harrell v. Bowen*, 862 F.2d 471, 481 (5th Cir. 1988)(Commissioner need not make an additional showing of the existence of jobs within her abilities when relying on the Grids).

The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

ORDERED that the above-entitled Social Security action is **AFFIRMED**.

SIGNED this 15th day of August, 2005.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE